

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

TENTH STREET BUILDING)
CORPORATION,)
Plaintiff,)
v.)
BP PRODUCTS NORTH)
AMERICA INC., f/k/a and successor to)
BP OIL COMPANY, f/k/a and successor)
to BORON OIL COMPANY, and)
DONALD TRAPP,)
Defendants.)

Civ. No. 03-359 Erie

Order

On September 7, 2005, we entered an Order lifting the stay on this case and ordered the defendants to answer the Complaint no later than September 26, 2005. Defendant Donald Trapp has filed a motion to dismiss (Doc. 12) and a motion for reconsideration of our September 7, 2005 Order lifting the stay. (Doc. 13). Mr. Trapp argues that the stay should not have been lifted since he did not join in the motion to lift the stay. He also argues that the case against him should be dismissed with prejudice presenting various reasons, including his claim that Plaintiff has not engaged in settlement talks with him.

As the parties are aware this case was stayed shortly after it was removed to federal court so that costs could be minimized while the parties waited for a determination by the Pennsylvania Underground Storage Tank Indemnification Fund regarding reimbursement costs to Plaintiff. It was hoped that such a determination would facilitate a final settlement of this action. Those hopes were not realized, and it is now time to proceed to the merits of this action. Mr. Trapp has not presented a substantive legal basis for his motions. The arguments he presents may be addressed as

this action proceeds. The Court finds that it is in the interests of justice that this action proceed on the merits by requiring the Defendants to answer the Complaint. Accordingly, we will deny Mr. Trapp's motions.

The following Order is therefore entered.

AND NOW, this 21st day of September, 2005, it is HEREBY ORDERED, ADJUDGED and DECREED that Defendant Donald Trapp's Motion to Dismiss (Doc. 12) and Motion for Reconsideration (Doc. 13) be and hereby are DENIED.

IT IS FURTHER ORDERED that the Defendants' answers to the Complaint are due no later than October 5, 2005.

Maurice B. Cohill, Jr.
Maurice B. Cohill, Jr.
Senior United States District Judge

cc: counsel of record (by electronic mail)

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